

UNCLASSIFIED  
**TELEGRAM**

FILE 144

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INDICATE  
☐ COLLECT  
☐ CHARGE TO

**BI 021**

FROM AMEMBASSY BUENOS AIRES		CLASSIFICATION [REDACTED]
E.O. 11652:	GDS	ARGENTINA PROJECT (S200000044)
TAGS:	SHUM, AR, OVP	U.S. DEPT. OF STATE, A/RPS/TPS
SUBJECT:	RIGHT OF OPTION	Margaret P. Grafeld, Director
ACTION:	SECSTATE WASHDC	<input checked="" type="checkbox"/> Release ( ) Excise ( ) Deny
INFO:	AMEMBASSY MONTEVIDEO	Exemption(s): _____
	[REDACTED] BUENOS AIRES: 149	Declassify: ( ) In Part <input checked="" type="checkbox"/> In Full
		( ) Classify as _____ ( ) Extend as _____ ( ) Downgrade to _____
		Date _____ Declassify on _____ Reason _____
AMB	REF: (A) STATE 289223 (B) BUENOS AIRES 7241	
DCM	SUMMARY: FOREIGN MINISTER MONTES HAS NOT INITIATED	
POL-3	ANY FURTHER DISCUSSIONS WITH AMBASSADOR CASTRO	
POL/R	REGARDING THE SUBJECT OF U.S. ACCEPTANCE OF	
ECON	"DANGEROUS PRISONERS". MONTES' STATEMENT	
USIS	REGARDING OUTPLACEMENT OF PRISONERS CONSIDERED BY	
RF	GOA TO BE "DANGEROUS" DOES NOT SQUARE WITH	
CHRON	ADMINISTRATION OF CONTROLLED RIGHT OF OPTION	
	PROCEDURES NOR PRIOR STATEMENTS TO EMBASSY OF	
	SENIOR GOVERNMENT OFFICIALS THAT HARD CORE CASES	
	WOULD NOT BE RELEASED. ENTIRE PURPOSE OF JUNTA'S	
	CIRCUMSCRIBING ARTICLE 23 OF THE ARGENTINE	
	CONSTITUTION WAS TO INSURE THAT NO EXECUTIVE	
	DETAINEE WOULD BE EXILED WHO MIGHT POSE A THREAT	

DRAFTED BY: POL: YThayer/ POL: FAHarris:eg	DRAFTING DATE 1/5/78	TEL. EXT. 277	CONTENTS AND CLASSIFICATION APPROVED BY: <b>XXX DCM: MChaplin</b>
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CLEARANCES:

POLCOUNS: WHHallman

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50153-101

81F93  
50/52

OPTIONAL FORM 153  
(Formerly FS-413)  
January 1975  
Dept. of State

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TO THE PEACE AND ORDER OF THE COUNTRY.

2. LEGAL CONSIDERATIONS -----

THE RIGHT OF OPTION PROGRAM AS PRESENTLY ENVISIONED IN ARGENTINE LAW PERMITS ANY PERSON DETAINED BY THE PODER EJECUTIVO NACIONAL - P.E.N., TO PETITION THROUGH PRISON AUTHORITIES TO THE MINISTRY OF INTERIOR FOR HIS RELEASE UNDER THE CONSTITUTIONAL RIGHT OF OPTION. A CONSTITUTIONAL AMENDMENT (ACTA INSTITUTIONAL) ISSUED IN CONJUNCTION WITH LAW 21,650 AMENDS ARTICLE 23 OF THE ARGENTINE CONSTITUTION TO ALLOW THE PRESIDENT OF THE COUNTRY TO REJECT THE PETITION OF ANY PERSON SEEKING THE RIGHT OF OPTION TO LEAVE THE COUNTRY WHOSE FREEDOM ABROAD THE PRESIDENT FEELS WILL ENDANGER THE PEACE AND SECURITY OF THE NATION. FOREIGN MINISTRY, MINISTRY OF THE INTERIOR AND MILITARY OFFICIALS HAVE CONSISTENTLY INDICATED TO THE EMBASSY AND THE ARGENTINE PUBLIC THAT INCLUDED AMONG THE 3607 P.E.N. PRISONERS ARE A GROUP OF HARDCORE POLITICAL ACTIVISTS WHO THE GOVERNMENT KNOWS ARE GUILTY OF CRIMES AGAINST THE STATE BUT BECAUSE OF PROCEDURAL DIFFICULTIES IS UNABLE TO PROSECUTE. (COMMENT: INFORMATION RECEIVED BY THE EMBASSY INDICATES THAT OVER 1,300 OF THE P.E.N. DETAINEES (36%) MIGHT BE WITHIN THIS NON-RELEASABLE CATEGORY.)

3. ADMINISTRATION OF THE RIGHT OF OPTION PROCEDURES -----

THERE APPEARS TO BE NO POLICY AGREEMENT WITHIN THE MILITARY REGARDING THE NUMBER OR TYPE OF P.E.N. DETAINEE WHO SHOULD BE

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RELEASED. GETTING ARMED FORCES AGREEMENT ON A MODIFIED RIGHT OF OPTION PROGRAM AND TO ADMINISTRATIVE PROCEDURES TO IMPLEMENT THAT PROGRAM WAS REPORTEDLY A DIFFICULT JOB. THE RESULT, ACCORDING TO MINISTRY OF INTERIOR OFFICIALS RESPONSIBLE FOR THE BASIC OPERATION OF THE RIGHT OF OPTION PROGRAM, WAS THE ADOPTION OF A "BLACK BALL SYSTEM" IN WHICH ANY MILITARY SERVICE, THE STATE INTELLIGENCE SECRETARIAT (SIDE), FEDERAL POLICE OR PROVINCIAL POLICE, IF INVOLVED, CAN VETO THE RIGHT OF OPTION PETITION. THE MINISTRY OF THE INTERIOR DOES NOT HAVE STAFF TO CONDUCT INDEPENDENT INVESTIGATIONS OF THESE CASES OR TO LOOK BEHIND ANY VETO.

4. GOA IS AWARE OF THE LEGAL AND LOGISTICAL PROBLEMS EMBASSIES FACE IN GRANTING THE VISA GUARANTEE CERTIFICATE TO PEN DETAINEES AS AN INITIAL STEP IN THE RIGHT OF OPTION PROCEDURE. WE HAVE TRIED TO ENCOURAGE INTERIOR MINISTRY AUTHORITIES TO POSTPONE THE CERTIFICATE STAGE UNTIL AFTER THE DETAINEE'S OPTION PETITION HAS BEEN FAVORABLY REVIEWED BY AUTHORITIES AND ALSO TO PERMIT CONSULAR ACCESS TO OPTION PETITIONERS IN ORDER TO FULFILL OUR VISA REQUIREMENTS. AT PRESENT THE MAIN BOTTLE-NECK IN THE RELEASE OF PEN OPTION CASES APPEARS TO BE THE GENERAL UNWILLINGNESS OF GOA AUTHORITIES TO FACILITATE THE COMPLEX PROCESSING REQUIRED AND TO ACT FAVORABLY AND EXPEDITIOUSLY ON OPTION CASES.

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5. ALTHOUGH THE EMBASSY HAS NOT BEEN APPROACHED TO "TAKE" ANY PRISONERS, WE DID RECEIVE ON DECEMBER 23, 1977 A CIRCULAR DIPLOMATIC NOTE DATED NOVEMBER 3, 1977 TRANSMITTING THE SEPTEMBER 1 RIGHT OF OPTION LAW. WE CANNOT ACCOUNT FOR THE DELAY IN THE NOTE'S BEING ACTUALLY TRANSMITTED.

6. COMMENT: WHEN SPEAKING TO FOREIGN VISITORS, FOREIGN MINISTRY OFFICIALS MAKE A POINT OF BEMOANING THE DIFFICULTY OF FINDING RESETTLEMENT LOCATIONS ABROAD FOR PEN PRISONERS AND ~~INvariably~~ RHETORICALLY ASK IF GOA CANNOT "UNLOAD" SOME OF ITS TERRORISTS IN THE VISITORS' COUNTRY. THIS ATTITUDE TENDS TO CLOUD THE FACT THAT MANY INDIVIDUAL DETAINEES WOULD NOT BE CONSIDERED MILITANT TERRORISTS AND THAT SOME PERSONS, BOTH FOREIGN REFUGEES AND ARGENTINES, HAVE HAD VISAS TO RESETTLE ABROAD FOR SOME TIME AND YET HAVE STILL NOT BEEN RELEASED BY ARGENTINE AUTHORITIES. END COMMENT.



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